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EXAMINER
TORIMIRO, ADETOKUNBO OLUSEGUN

ART UNIT	PAPER NUMBER
3714	

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09/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/828,411	Applicant(s) KUBBY ET AL.	
	Examiner Adetokunbo O. Torimiro	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,9-11,13,15,19,22,25 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11,13,15,19,22,25, and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/18/2007, 05/24/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The amendment received on 05/24/2007 has been considered. It has been noted that claims 1,9-11,13,15,19,22,25, and 28 have been amended. Claims 2-8,12,14,16-18,20-21,23-24,26-27, and 29-30. New claims 31-50 have been added.

2. The Election/Restriction discussed on 09/10/2007 concerning claims 1,9-11,13,15,18,22,25, and 28 of group I and claims 31-50 of group II has been entered. The applicant has elected without traverse claims 1,9-11,13,15,18,22,25, and 28 of group I.

3. The applicant has withdrawn claims 31-50 of group II.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,9-11,13,15,19,22,25, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (US 5,610,674) in view of Lebens et al (US 6,631,979) and Carter et al (US 4,702,418).

Re claims 1 and 9: Martin teaches a video game system (see col.3, lines 65-67) including a video game system controller that is arranged to execute a video game program, the video game system further including a micromechanical dispensing device that is arranged to

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dispense at least one fluid into an atmosphere under control of the video game system controller (see col.7, lines 10-15).

However, Martin fails to teach where the micromechanical dispensing device comprises one or more micromechanical dispensing mechanisms; where the one or more micromechanical dispensing mechanisms comprise a thermally-actuated and driven paddle vane; and where the one or more micromechanical dispensing mechanisms are formed using micromachining and etching techniques; further comprising a sensor arranged to form a sensor signal based on an atmospheric substance comprised in the atmosphere and to communicate the sensor signal to the video game system controller, wherein the video game system controller is arranged to control the micromechanical dispensing device based on the sensor signal; wherein the atmospheric substance comprises the at least one fluid that is dispensed by the micromechanical dispensing device.

Carter et al teaches wherein the atmospheric substance comprises the at least one fluid that is dispensed by the micromechanical dispensing device (see col.1, lines 25-30).

Lebens et al teaches where the micromechanical dispensing device comprises one or more micromechanical dispensing mechanisms; where the one or more micromechanical dispensing mechanisms comprise a thermally-actuated and driven paddle vane; and where the one or more micromechanical dispensing mechanisms are formed using micromachining and etching techniques; further comprising a sensor arranged to form a sensor signal based on an atmospheric substance comprised in the atmosphere and to communicate the sensor signal to the video game system controller, wherein the video game system controller is arranged to control the micromechanical dispensing device based on the sensor signal (see abstract;

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col.7, lines 47-56); wherein the thermally-actuated and driven paddle vane is arranged to move in response to a thermal expansion that results when an electric signal is applied (**see col.2, lines 40-52**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the inventions of Carter et al and Lebens et al into the gaming system of Martin. One would be motivated to do this so as to have a way of producing a micromechanical device; a realistic gaming system where smell and scents make up a great part of the game; and also a gaming system to determine whether the scent in the air is strong enough to be perceived or sensed by the player.

Re claims 10,11,13,15: Martin teaches a video game system (**see col.3, lines 65-67**); communicating a sensor signal to the video game system controller (**see col.2, lines 1-15; col.3, lines 30-35**); wherein the video game system controller is arranged to control the micromechanical dispensing device based on the sensor signal (**see col.7, lines 10-15**).

However, Martin does not teach wherein the atmospheric substance comprises a human body fluid; wherein the atmospheric substance comprises an odor or fragrance that is formed by a human body; the micromechanical dispensing device further comprises a dispensing device sensor arranged to form a system sensor signal based on an atmospheric substance comprised in the atmosphere.

Carter teaches wherein the atmospheric substance comprises a human body fluid (**see col.1, lines 52-55**); wherein the atmospheric substance comprises an odor or fragrance that is formed by a human body (**see col.1, lines 52-55**); the micromechanical dispensing device further

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comprises a dispensing device sensor arranged to form a system sensor signal based on an atmospheric substance comprised in the atmosphere (see col. 1, lines 47-51).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the invention of Carter et al in the gaming system of Martin. One would be motivated to this in order for the video game system to determine whether the scent in the air is strong enough to be sensed by the player.

Re claims 19,22: Martin teaches wherein the micromechanical dispensing device comprises one or more micromechanical dispensing mechanisms arranged to dispense one or more fluids into the atmosphere (see figs.3and4; col.4, lines 5-30), each of the one or more micromechanical dispensing mechanisms arranged to fluidly couple to a corresponding fluid reservoir of one or more fluid reservoirs and wherein any of the one or more fluid reservoirs contain a fluid comprising any of a fragrance, perfume, therapeutic, mood enhancing agent, pheromone, moisturizer, and humectants (see figs. 3,4,7,8, and 8A; col.5, lines 5-19).

Re claim 25: Martin teaches wherein the micromechanical dispensing device comprises a micromechanical dispensing mechanism arranged to dispense a plurality of fluids into the atmosphere (see fig.3), the micromechanical dispensing mechanism being fluidly coupled to an included valve (84), wherein the valve is arranged to selectively fluidly couple the micromechanical dispensing mechanism to a plurality of fluid reservoirs and wherein any of the one or more fluid reservoirs contain a fluid comprising any of a fragrance, perfume, therapeutic, mood enhancing agent, pheromone, moisturizer, and humectants (74) (see fig. 3; col.5, lines 5-

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19).

Re claim 28: Martin teaches wherein the micromechanical dispensing device comprises a plurality of micromechanical dispensing mechanisms arranged to dispense a fluid into the atmosphere, the plurality of micromechanical dispensing mechanisms arranged to fluidly couple to a fluid reservoir wherein the fluid reservoir contains a fluid comprising any of a fragrance, perfume, therapeutic, mood-enhancing agent, pheromone, moisturizer, and humectants (see fig. 8A; col. 5, lines 55-65).

Response to Arguments

6. Applicant's arguments on Claims 1,9-11,13,15,19,22,25, and 28 have been considered but are moot in view of the new grounds of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

AT


ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER